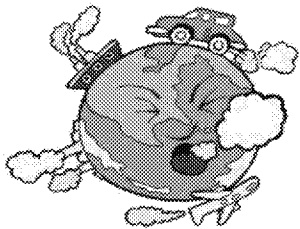


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**Sent:** 2/12/2020 5:03:50 PM  
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**Subject:** Air & Radiation Law News for February 12, 2020



## Air & Radiation Law News for February 12, 2020

## Highlights

### LEADING THE NEWS

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#### Justice Seeks More Money to Defend Trump Environmental Policies

By Ellen M. Gilmer

The Justice Department is asking Congress for an infusion of cash to help defend the Trump administration's environmental agenda.

#### Former PG&E Lawyer Takes Reins of EPA's California Region

By Stephen Lee

The EPA announced Tuesday that longtime corporate oil and gas attorney John W. Busterud has been named the chief of the agency's large West Coast region.

#### Trump EPA's Adviser Policy in Legal Knot After Court Ruling (1)

By Ellen M. Gilmer

A court decision striking down the Trump administration's effort to limit who can serve on EPA advisory boards conflicts with other rulings and leaves open questions about the policy's future.

### AIR, WATER, AND WASTE

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#### EPA Skips House Hearing on Lead, Citing Short Notice (2)

By Amena H. Saiyid

The EPA skipped a House hearing Tuesday on the agency's proposed revisions to its lead and copper rule, after complaining of receiving only a six-day advance notice of the event.

#### Traditional Ways of Paying for Fires, Floods Aren't Cutting It

By Will Wade and Mark Chediak

Fires and floods are sending some of the nation's largest utilities to the bond market to cover huge, unexpected bills.

## **ENERGY AND NATURAL RESOURCES**

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### **Pipeline Agency to Follow Industry Practices for Gas Storage (1)**

By Sylvia Carignan

Federal safety regulators are adopting industry best practices in new mandatory requirements for natural gas storage.

### **BNSF Didn't Need Local Environmental Permit to Repair Track**

By Bernie Pazanowski

BNSF Railway Co. wasn't required to get a local permit to repair its tracks in an environmentally protected gorge in Washington state, a federal court said.

### **Pipeline Regulator Tells Court Its Review Process Is Lawful**

By Ellen M. Gilmer and Bobby Magill

Federal pipeline regulators are defending a practice called "Kafkaesque" by one judge, arguing they need flexibility to review appeals from landowners, environmental groups, and other project opponents.

### **PolyMet Files Minnesota Petition to Gain Mining-Project Permits**

By Stephen Joyce

Poly Met Mining Inc. asked the Minnesota Supreme Court to overturn a lower-court decision that blocked the company's plan to construct the state's first copper, nickel and precious metals mine mine.

### **Senate Democrats Urge Grassley to Act on Energy Tax Bills**

By Colin Wilhelm

Senate Democrats are pressing Finance Chairman Chuck Grassley to hold a hearing on tax policies that would incentivize more low-emission energy usage.

### **Rosemont Copper Mine Approval Must Be Reconsidered by USFWS**

By Maya Earls

A federal judge has overturned the U.S. Fish & Wildlife Service's approval of an open-pit copper mine in Arizona's Coronado National Forest.

### **Shell, EDP Set Record-Low Price for U.S. Offshore Wind Power**

By Christopher Martin

Royal Dutch Shell Plc and EDP Renovaveis SA agreed to sell power from a wind farm they're building in the Atlantic Ocean for a record-low price.

### **Pipeline Operator Gets Redo on Property Owners' Easement Awards**

By Peter Hayes

UGI Sunbury LLC will have a chance to slash the compensation it must pay for natural gas pipeline easements after the Third Circuit found the evidence given by the landowners' valuation expert was unreliable.

### **Trump Budget Seeks Higher User Fees on Barge Operators**

By Amena H. Saiyid

The Trump administration wants to levy a new user tax on barge operators to upgrade the nation's lock and dam system, as part of its budget request to fund the U.S. Army Corps of Engineers in fiscal 2021.

## **CLIMATE**

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### **Why Company Carbon Cuts Should Include 'Scope' Check: QuickTake**

By Jeremy Hodges and William Mathis

When a company pledges to cut its carbon emissions, how big a deal is it? That depends on what's being counted. An oil company's direct emissions from its trucks, drills and facilities are only a sliver of the carbon released when the fuel it sells is burned. And an airport vowing to use wind power for its runway lights is making a much smaller commitment than if its promise covered flights.

### **Electrifying Europe's Factories Would Slash Emissions by 2050**

By Jeremy Hodges and William Wilkes

The widespread electrification of some of the most polluting industries could dramatically reduce the amount of greenhouse gases spewed into the atmosphere.

## **FROM THE STATES**

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### **Wyoming Governor Seeks \$25 Million for Zero-Carbon Coal Projects**

By Tripp Baltz

Wyoming Gov. Mark Gordon urged lawmakers on Monday to invest \$25 million to advance zero- or net-negative carbon uses for coal and other fossil fuels, indicating that the state isn't backing away from developing its hydrocarbon resources.

### **San Francisco Tries to Rally Public to Buy Piece of PG&E (1)**

By David R. Baker

Beset by fires, bankruptcy and blackouts, PG&E Corp. now faces a marketing campaign from government officials in its hometown bent on replacing the utility giant.

### **Battle Over Biggest Utility Takeover in U.S. Could Go Three Ways**

By David R. Baker

South Carolina has narrowed its choices for the future of Santee Cooper to three competing options: sell it, have someone else manage it or keep the troubled state-owned utility independent.

## **INSIGHT**

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### **INSIGHT: Burning Garbage Is No Part of a Cleaner Future**

A recent House proposal says burning municipal waste is a form of clean energy, but Roger Ballentine, president of Green Strategies, begs to differ. He says burning trash isn't a way to get to net zero energy and hurts the already declining recycling industry.

### **INSIGHT: Gender Equity in BigLaw Partner Compensation—What the Data Say**

Senior women partners are paid less than male partners with the same practice metrics, and a supermajority of all women feel undercompensated, according to legal consultant Hugh Simons' analysis of compensation surveys by Major, Lindsey & Africa. He outlines simple and responsive steps firms should take to address these issues.

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### Redefining EPA

Overhauling an agency and its mission

<https://insideepa.com/agency-at-a-crossroads>

Inside EPA's **Environmental Policy Alert**, 02/12/2020

<https://insideepa.com/newsletters/environmental-policy-alert>

### Latest News

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#### DOJ, Overwhelmed By Defense Of EPA Rollbacks, Seeks FY21 Budget Boost

The Justice Department's (DOJ) environment division says it cannot stretch its budget to defend the Trump administration's current and future rollbacks of EPA and other agencies' rules, noting the division has no base funding for the effort and is thus seeking a funding increase and new positions in its fiscal year 2021 budget request. **FULL STORY**

#### Senate Democrats Give EPA Lead Role In Achieving Net-Zero GHG Goal

Nearly three dozen Senate Democrats are introducing new legislation directing EPA to implement a far-reaching plan using its existing Clean Air Act authority to achieve net-zero greenhouse gas emissions by 2050, while including strong labor and environmental justice protections. **FULL STORY**

#### In Court Split, Judge Finds EPA's Science Advisor Policy Violates APA

A federal judge has found the Trump EPA's controversial 2017 directive barring its science advisors from receiving agency research grants "arbitrary and capricious" and in violation of the Administrative Procedure Act (APA), a ruling that splits courts on the issue just as two appellate courts weigh arguments in separate challenges to the policy. **FULL STORY**

### Daily Feed

#### Trailer makers seek to cut EPA deference on GHG rules

"EPA's unprecedented theory -- that trailers can be regulated as 'incomplete vehicles' -- is both legally and factually incorrect," the brief says. **FULL STORY**

#### Ewire: EPA taps Busterud to be new Region 9 chief

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In today's Ewire: John Busterud will serve as EPA Region 9 chief after a 30-year career as an executive with the California utility Pacific Gas & Electric Co., as well as a stint as a Clean Air Act adviser for the agency. [FULL STORY](#)

### **EPA sends revised boiler air toxics rules for OMB review**

The agency's proposal will respond to long-standing court remands addressing the strength of some boiler emissions limits, and use of carbon monoxide as a 'surrogate' for reducing air toxics. [FULL STORY](#)

### **Environment Next**

### **U.N. initiative aims to help U.S. companies meet sustainability goals**

The United Nations is launching an initiative aimed at dramatically boosting efforts by companies in the United States and other countries to attain the U.N.'s Sustainable Development Goals (SDGs), in response to concerns that corporations are struggling to meet the SDGs' 2030 deadline. [FULL STORY](#)

# GREENWIRE

AN E&E NEWS PUBLICATION

## **EPA**

### **Ex-PG&E lawyer to take helm of Region 9**

Kevin Bogardus, E&E News reporter Published: Tuesday, February 11, 2020



EPA's Region 9 headquarters in San Francisco. Brian Song/G2019 Google

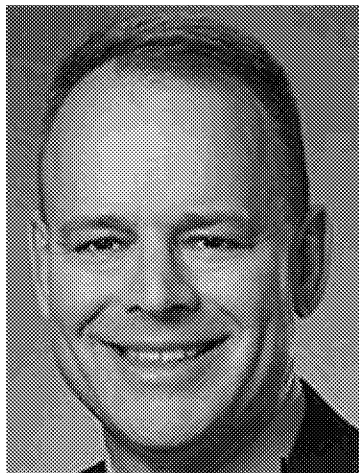
John Busterud, once a top attorney for California utility giant Pacific Gas and Electric Co., will now lead EPA's Pacific Southwest branch.

EPA announced today that Busterud has been appointed Region 9 administrator. His hire comes during a tumultuous time for the regional office, which oversees EPA operations in Arizona, California, Hawaii, Nevada and the Pacific Islands as well as 148 tribes. The agency suddenly fired the prior regional administrator, Mike Stoker, from the post last week.

EPA Administrator Andrew Wheeler said in a statement that Busterud's "extensive background in energy and environmental issues makes him a great choice to lead Region 9."

Busterud called it "an honor and privilege" to serve as head of EPA's Region 9 office.

"I look forward to working with Administrator Wheeler, the administration, our dedicated professional staff, and our partners and stakeholders to protect human health and the environment in the Pacific Southwest," he said.



John Busterud. Busterud/LinkedIn

Wheeler told EPA employees in an internal email obtained by E&E News that Busterud will start in the San Francisco office Feb. 18.

In addition, Deborah Jordan, who had been acting regional administrator in the wake of Stoker's firing, will return to her prior post of deputy regional administrator in the Pacific Southwest branch.

"As we welcome John to Region 9, please join me in thanking Deborah Jordan who graciously stepped up to serve as the Acting Regional Administrator during this transition," Wheeler said in the email sent today.

Busterud worked at PG&E from 1985 to 2016, including as a senior director and managing counsel.

At the utility, he helped oversee "a broad practice including air and water quality, hazardous materials compliance and remediation, endangered species, and legislative and environmental policy matters," according to Wheeler's email. Busterud also served on EPA's Clean Air Act Advisory Committee from 2012 to 2017 while at PG&E.

PG&E attracted scrutiny for shutting off power last year to prevent wildfires in California. Wheeler instead questioned whether state regulators were to blame for the power outages (Greenwire, Oct. 22, 2019).

Busterud is a retired Army colonel and had several active duty deployments, including Operation Iraqi Freedom. He discussed a deployment in Africa and a memento he kept in his office — a rungu stick, or "warrior club" — with PG&E's external news website in 2013.

"You'll see that our command put our command coin on the rungu stick, as well as our name and the time we deployed. I had a great experience when I was working in Kenya to actually meet Maasai warriors who were working in the community and discuss their proud tribal past and how they still are a very special part of Kenyan society," Busterud said.

He has been a board member for the California Council for Environmental and Economic Balance, vice chairman of the California Veterans Board, and chairman of the Foundation for Relief and Reconciliation in the Middle East.



Busterud earned his Bachelor of Arts degree from Union College, got his law degree from the University of California Hastings College of the Law and graduated from the Army's Command and General Staff College.

He also comes from a family with Republican environmental ties. His father, John A. Busterud, was a former GOP California assemblyman who served as chairman of the White House Council on Environmental Quality under President Ford.

His predecessor, Stoker, was terminated abruptly last week by EPA. Stoker claimed his firing was personal after he clashed with leadership in EPA headquarters, but the agency claimed he had neglected his duties and traveled too much (*Greenwire*, Feb. 7).

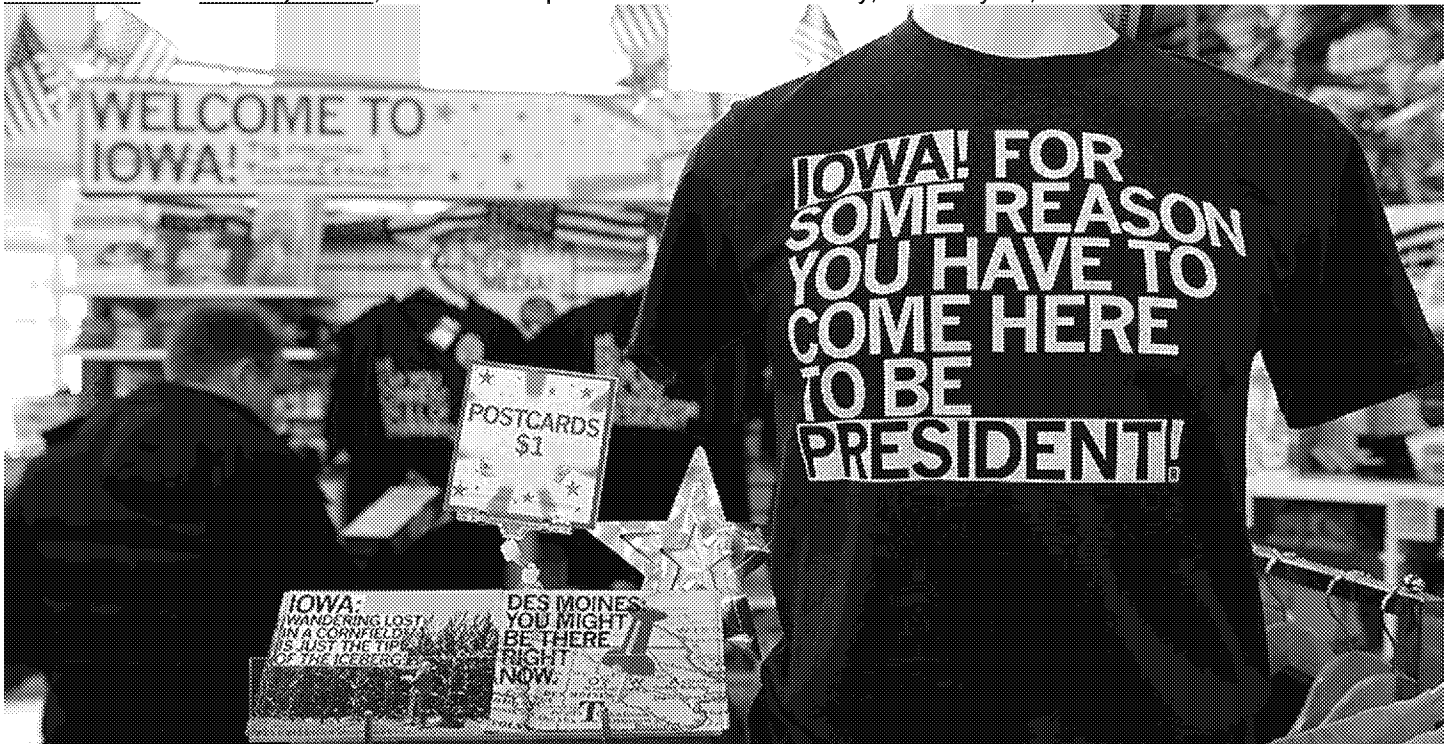
EPA had defended Stoker's frequent travel in the past. In addition, the agency changed Stoker's "duty station," essentially his workplace, to Los Angeles, which was closer to his Santa Barbara County home, according to records obtained by E&E News under the Freedom of Information Act.

EPA spokesman Michael Abboud said Busterud's duty station will be the EPA Region 9 office in San Francisco. That is the branch's main office, where roughly 90% of Region 9 employees work.

## POLITICS

### Iowa's election debacle could cost ethanol its clout

Marc Heller and Timothy Cama, E&E News reporters Published: Tuesday, February 11, 2020



People shop for politics-themed merchandise in Des Moines, Iowa, on the day of the state's caucuses. Iowa is in danger of losing its first-in-the-nation status after a chaotic caucus process that saw technological breakdowns. Jonathan Ernst/REUTERS/Newscom

The messy Iowa Democratic caucuses may claim a collateral victim: the political power behind ethanol.

An unfolding debate in the fuel industry has biofuels losing political punch — maybe — if Iowa surrenders its first-in-the-nation status in picking presidential nominees. And the debacle over counting votes in the Democratic caucuses has given fresh energy to the idea that Iowa shouldn't go first.

"I think that we're on life support at this point," said Timothy Hagle, a political science professor at the University of Iowa.

If the caucuses survive, and the state remains first in line, Iowa may have a Republican — President Trump — to thank, Hagle said. Amid the Democratic mess over a vote-counting app created by Shadow Inc., Trump tweeted that he likes the caucuses, which allow candidates to connect with largely rural voters in an up-close and personal way they can't in most other states.

Biofuel supporters and their critics in petroleum and environmental circles are watching the situation for signs that could tip the lobbying fight in one direction or the other.

"I think once the fascination with the app goes away, we very much do want to keep Iowa first in the nation," said Monte Shaw, executive director of the Iowa Renewable Fuels Association and himself a former Republican candidate for Congress in Iowa.

"It's been an enormously helpful tool for rural America," he said.

Supporters of the caucuses say they force candidates to tackle rural issues like biofuel mandates that would otherwise be lost in the wake of bigger, more urban states' primaries. Candidates wouldn't need Iowa as much without the bounce it can give them, the theory goes.

Democratic candidates had to study the issue enough to answer questions, although some — like Sen. Amy Klobuchar of Minnesota — were already well-versed and prepared to take a stand for biofuels.

Trump, similarly, made pro-biofuel promises as a candidate in 2016. Even Sen. Ted Cruz (R-Texas), who openly opposed biofuel blending mandates, said he liked ethanol.

Biofuel policy may not have the outsize role that's sometimes portrayed in media reports — the number of farmers is shrinking, and polls show support is strongest among older voters — but it's still a critical part of the political conversation in Iowa, Shaw and others say.

Biofuels also continue to carry economic weight. In 2018, the state produced 4.35 billion gallons of ethanol and 365 million gallons of biodiesel, according to the Iowa Renewable Fuels Association. The industry contributed about \$5 billion to the state's gross domestic product, the trade group said.

Politically, biofuel has been more sensitive than usual this election season because of the Trump administration's mixed signals: The president has publicly supported biofuels, but EPA has gone back and forth over policy points such as exempting small refineries from blending requirements.

Sen. Chuck Grassley (R-Iowa), the Senate's leading advocate for the renewable fuel standard, recently dismissed the idea that losing the first-in-the-nation vote would cost biofuels.

"Wouldn't make any difference," Grassley told agriculture reporters on a conference call, quickly adding that he doesn't see Iowa losing its slot. Only one Democratic candidate, Klobuchar, talked about the RFS much, he said. "It wasn't an issue."

Shaw, too, said he believes the technological issues that dogged the Democrats won't kill Iowa's status, though they might force the Democratic Party to consider changes in how the caucuses are run.

"We will still be first," he said. "Four years from now, Iowans will go to their precincts and participate as they have since the 1970s."

Trump's comments after the caucuses are probably a good sign they won't be killed, Hagle said. "Maybe he was teasing the Democrats, but still, if you've got an incumbent president who likes the caucuses, that's a good sign they'll stay."

Being first in line helps elevate issues, although biofuel policy may not be as big an issue in four years, said Ed Wiederstein, a former president of the Iowa Farm Bureau. The industry and farmers are "pretty good at making noise regardless of caucus or not," he said.

Iowa's ability to give ethanol a political foothold is a point of annoyance to petroleum industry lobbyists, who say Democratic support for biofuels is short term at best, or even hypocritical; the Green New Deal supported by the party's liberal wing prescribes an end to liquid-based fuels, in favor of electric vehicles.

Oil-rich states like Texas have more political weight in the general election, they say, and being seen as anti-oil isn't a winning formula there.

Besides, said a petroleum industry lobbyist who asked that his name be withheld to speak openly about the political landscape, the ethanol industry tends to overstate its political significance, as evidenced by Cruz's victory in the last cycle and that of former Sen. Rick Santorum (R-Pa.) in 2012. Corn-based ethanol is well enough established that it doesn't need the RFS to remain part of the fuel mix, he said.

"For the last few cycles, ethanol has been a paper tiger," he said.

Shaw, for his part, said the Democratic caucuses may have served their role regardless of the outcome.

Rural issues like biofuel and farm policy attracted attention all the same, which may be more important than who won, Shaw said. "Iowa had the impact it's supposed to have."

## Q&A

### EPA's new IG: 'I will always be friendly'

Kevin Bogardus, E&E News reporter Published: Tuesday, February 11, 2020



EPA Inspector General Sean O'Donnell at agency headquarters this week. Francis Chung/E&E News

Sean O'Donnell is settling in as EPA's new inspector general on the heels of high-profile clashes between the watchdog office and agency leadership.

Outgoing EPA Chief of Staff Ryan Jackson last year refused to cooperate with various investigations by the IG, triggering a warning that grabbed Congress' attention. Tempers cooled somewhat after Jackson later agreed to sit for an interview for one of those investigations.

Critics of the Trump administration also turned to the IG office during the tenure of Scott Pruitt, who resigned as EPA administrator in July 2018 under an ethics cloud. Many felt the inspector general should have been more aggressive with Pruitt, including after his departure.

Sworn in more than two weeks ago, O'Donnell, 46, is now in charge of the office — with a nearly \$53.1 million annual budget and 268 employees — that's responsible for rooting out fraud, waste and abuse at EPA.

A former trial attorney at the Department of Justice, O'Donnell had a smooth confirmation. Nominated by President Trump last October, he was confirmed by the Senate on a voice vote in December. The office had lacked a confirmed leader for more than a year.

The University of Texas law school graduate served in several offices at DOJ, and as a federal prosecutor handled complex cases involving corruption and fraud.

O'Donnell sat for an interview with E&E News last week in his EPA headquarters office.

**You grew up in Washington state. Many in your family were stevedores at the Port of Seattle. What was that like?**

I think it was relatively typical of growing up in Washington state in the '70s and '80s. It was a blue-collar town at the time, so most of my friends had parents who worked on the waterfront or worked at Boeing.

**You served at DOJ from 2005 until you were confirmed as EPA inspector general. Why get into law for the federal government?**

I decided I wanted to be a lawyer while I was a graduate student at the University of Texas, and I had a chance to work with a professor who was doing litigation consulting for a major lawsuit. I saw the challenge he had of communicating difficult mathematical, statistical and scientific notions to lawyers who then had the challenge of communicating it to a jury or a judge. It was a form of storytelling that happens to be a lot of fun.

I think it was just a natural sense of public service. There are few things I think are as rewarding for any attorney than being able to stand up in court and say, "Sean O'Donnell for the United States" or "Sean O'Donnell for the president."

**What was your strangest case at DOJ?**

We sued the city of Philadelphia for failing to protect the voting rights of Spanish-speaking, Puerto Rican and Vietnamese voters. It was my very first trial. I was so nervous. I cross-examined the city's witnesses and gave the closing argument. I'll tell you, leading up to that and afterwards, the city of Philadelphia, the way they run elections was so profoundly strange that one day, I would probably write a book, and it would be several volumes, like the Johnson [biographies], each one about a different area.

**You served on a detail at DOJ to help vet President Trump's judicial nominations, including Supreme Court Justice Neil Gorsuch. What did you do as part of that confirmation process?**

I mostly did a support role, writing memos on the state of the law. Of course, you want to brief then-Judge Gorsuch on different aspects of the law, different legal developments. He obviously was and is an extremely intelligent jurist, but even the best jurist probably doesn't know about the developments in, say, Section 5 of the Voting Rights Act or on the exercise of executive authority in national security areas.

**How did you get the job of EPA inspector general?**

People that I knew from the Department of Justice who had gone over to the White House counsel's office knew me. I had a good reputation. I had done a lot of work with IG offices in the past.

**Where do you think the inspector general is most needed at EPA?**

I think that IGs across the board, what they can do is really help to inspire a sense of integrity in the departments they serve. I think it's so important that the public have confidence in good government. When there's an IG that's aggressive, professional, thorough, helping the agency exposing waste, fraud and abuse, I think that the public then actually feels better.



EPA Administrator Andrew Wheeler swearing in EPA Inspector General Sean O'Donnell. EPA

**The EPA Office of Inspector General has been criticized for how it handled some of its investigations into former EPA Administrator Scott Pruitt — closing some of those cases as "inconclusive." Do you plan to reopen those investigations?**

I don't have any plans to second-guess the judgment of the staff that was made before I got here. I can tell you, having met with a great many of the staff members, I've been absolutely impressed with their commitment to the mission and the commitment to the EPA mission. I have no reason to second-guess that.

I understand the frustration that comes from that because I think so often for every IG office, they feel like they have done a lot of work; they put together a really good report, and they take it to the Department of Justice, which doesn't always appreciate the hard work they put into this.

**EPA Chief of Staff Ryan Jackson didn't tell the IG office who gave him an advance copy of congressional testimony as part of an audit and initially refused to sit for an interview with IG agents for another investigation, which sparked a rare "Seven Day Letter." Have you reviewed this matter yet?**

I have reviewed all of the written correspondence. I have begun talking to the office here. There's a great deal of context involved in what happened. I'm pleased that a lot of it has been resolved. I can tell you that the administrator on my first day committed to cooperating with the IG office fully. I think that ultimately, when you look at where our difference was, it was maybe more narrow than we really needed to make it seem so that ultimately, we were able to interview Mr. Jackson.

**Was sending the Seven Day Letter the right move by the IG office?**

Like I said, I'm not going to second-guess the decisions that were made under previous leadership. I have faith in them. I'm getting to know all of them. They're all absolutely committed to the mission of the office.

**As part of its response to the Seven Day Letter, EPA produced legal advice saying the IG office couldn't compel EPA employees to sit for interviews and inquiring about congressional testimony was not part of its jurisdiction. What are your thoughts on that advice?**

I think it's more complicated than that. I think that the [Inspector General] Act absolutely gives the inspector general's office access to all documents, all reports and all materials. I think it also allows us to get access to information. Sometimes, that information is locked in an individual's head, which is why we will of course go through the administrator if we need to for help. In that regard, I think the administrator has made clear that he encourages cooperation with the IG's office. What I'm hoping is going forward, that will actually be the case.

**Regarding that legal advice, the IG office said there was "recklessness in such views" and it would turn the Inspector General Act into "a no man's land," creating "wholesale exemptions" from providing information. Do you agree?**

Again, I was not the author of the letter, and I'm not going to second-guess [then-acting EPA IG Charles Sheehan] in his writing. What I can say is that it's absolutely essential that the agency respond to all of our requests for documents, for written reports, materials that's provided for under the IG Act, and that it also facilitate our requests for information as is provided under the IG Act.

**How are relations now between EPA and the IG office?**

I've had the opportunity to meet with Administrator Wheeler and a couple of the assistant administrators. I plan to continue meeting with assistant administrators. Also, I'll be going out to the regions and meeting with regional leadership. I'll tell you, every one of my meetings have been absolutely positive. Every office has pledged its commitment and its support of our work.

**As inspector general, what kind of relationship do you think you should have with EPA?**

I'll go back to what I had told the office on my first day, which is that I will have a professional relationship with every single person here in the agency. I might not be their friends, but I will always be friendly.

**How long do you plan to serve as EPA inspector general?**

I certainly don't have any plans to head on out.

**Is this something you see stretching for several administrations?**

That's my intention.

**Your LinkedIn profile once had a drawing of English writer G.K. Chesterton as your picture. Why?**

I have obviously read Chesterton. I enjoy Chesterton. He was sort of the Victorian Dr. Johnson with his turn of phrase and fabulous writing, and so that, of course, would be the intellectual reason I put it on there. Actually, I just thought what a great head of hair. And what a great beard and mustache.

*This interview has been edited and condensed for clarity.*

## **FEDERAL WORKFORCE**

### **Union workers voice grievances against Trump**



Workers affiliated with the American Federation of Government Employees held a silent protest on Capitol Hill this afternoon. Francis Chung/E&E News

Federal workers were on Capitol Hill this afternoon calling on Congress to fund agencies and secure their benefits.

Lobbying this week coincides with yesterday's White House fiscal 2021 budget release, which once again proposes chipping away at federal worker benefits while ordering agencies to emulate the private sector.

Like last year, the Trump fiscal plan would cut cost-of-living payment increases for federal retirees, alter retirement benefits and shrink the interest rate for some savings plan investments.

The American Federation of Government Employees, which is hosting its annual meeting in Washington this week, said the changes would cut its members' retirement benefits in half.

Though Congress is expected to disregard the plan, it prompted outrage from the largest federal unions: AFGE and the National Treasury Employees Union.

AFGE Secretary-Treasurer Everett Kelley said the workforce "vehemently" opposes the plan, which he called "punitive" and "ridiculous."

"AFGE members will be fighting this proposal at every turn," Kelley said yesterday. "The administration's rhetoric about affordability is laughable; the federal retirement system is modest, fully funded, and is the only aspect of federal employee compensation that meets private sector comparability."

NTEU President Tony Reardon noted that the administration remains \$3 trillion in debt. "Gouging federal employee pay and benefits in the name of deficit reduction is ridiculous," Reardon said in a statement.

"Why must President Trump start every budget cycle with a slash-and-burn approach to federal government?" he said.

"Just like the last three years, NTEU will work with our allies on Capitol Hill to defeat these harmful proposals and ensure that federal employees are honored for their public service with fair pay raises and adequate resources for their agencies."

At noon today, the union held a quiet protest, with hundreds of government workers raising their fists in the Hart Senate Office Building. They are not allowed to have signs.



Their grievances in the Trump era span workforce benefits, the politicization of civil service and outsourcing.

And while the Trump budget would give workers a 1% across-the-board raise, that hike would be zeroed out by another proposal that would increase what they pay to their retirement plan, the unions said.

In December, the White House and lawmakers struck a deal to give workers a 3.1% raise. This year, the unions are calling for a 3.5% increase.

In the budget document, Trump stated that the federal system has failed to respond to the modern world with "nimbleness" and "agility."

"Recent, rapid changes in the nature of work have prompted resilient private sector employers to respond with nimbleness and agility, overhauling hiring practices, job descriptions, compensation packages, and work arrangements to stay competitive," he said. "Federal personnel practices have remained comparatively static."

Trump added that the civil service model was "crafted in another era, for a different workforce, doing a different type of work."

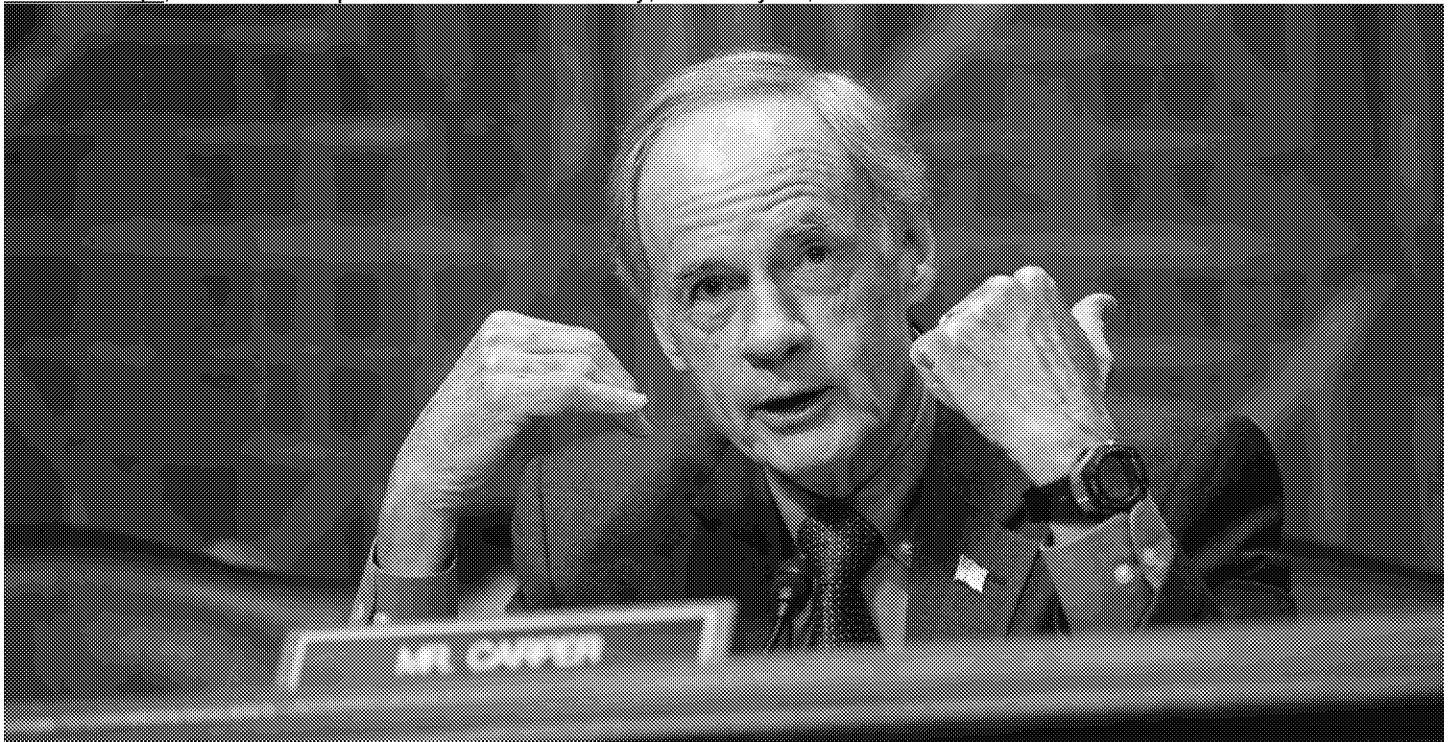
That kind of thinking is exactly what union leaders are worried about. Yesterday, AFGE's Kelley said the reelection of Trump could kill unions.

He said Trump's penchant for the private sector and outsourcing stands to undermine the work his 700,000 members do every day.

## CLIMATE

### Senate Dems float net-zero bill

Nick Sobczyk, E&E News reporter Published: Tuesday, February 11, 2020



Senate Environment and Public Works Committee ranking member Tom Carper (D-Del.) introduced climate legislation this morning.  
Francis Chung/E&E News

Sen. Tom Carper of Delaware, the top Democrat on the Environment and Public Works Committee, announced legislation this morning aimed at achieving net-zero greenhouse gas emissions by 2050.



The "Clean Economy Act" would direct EPA to use its existing Clean Air Act authority to reduce emissions across the economy to meet that goal, with interim targets in 2025, 2030 and 2040.

"This is the quickest way I think we can jump-start governmentwide climate action, by empowering agencies to use the tools that they already have. Not to create new tools, but to use the tools you have," Carper told reporters this morning.

The bill has more than 30 Democratic co-sponsors, including Senate Minority Leader Chuck Schumer (D-N.Y.).

It's similar to legislation introduced on the House side last year, H.R. 5221, sponsored by Rep. Don McEachin (D-Va.) and more than half the House Democratic Caucus (*E&E Daily*, Nov. 22, 2019).

EPA already has authority to regulate greenhouse gas emissions, but it's become a contentious policy fight in the decade since the agency first determined that climate-warming pollutants endanger public health.

The Trump administration has rolled back the Obama-era clean car standards and the Clean Power Plan, and Carper's bill likely would not prevent future back-and-forth between Republican and Democratic administrations.

It would, however, direct EPA to minimize harm to low-income communities and costs to consumers and to support jobs in clean energy fields.

And it's a sign, at the very least, that most Democrats agree on the goal of net-zero by 2050, one of the primary targets the U.N. Intergovernmental Panel on Climate Change says will be necessary to keep warming below 1.5 degrees Celsius over preindustrial levels.

"It lays down a foundation for reversing the inaction, the denial, the delay that we've seen for far too long in Congress when it comes to climate action," Michael Brune, executive director of the Sierra Club, said on a call with reporters this morning.

"We desperately need serious and bold and ambitious plans that are ready to go as soon as Democrats regain control of Congress, or in the much less likely scenario that congressional Republicans regain their sense of responsibility to both our children and our planet," he said.

## **EPA**

### **Trump team recommends more enforcement cuts**



An EPA special agent. EPA/YouTube

The Trump administration is continuing to recommend cuts in money and staffing for EPA enforcement as it talks of partnerships with state enforcers and less punitive approaches to compliance.

The proposed budget released yesterday recommends a 5% cut to criminal and civil enforcement funding, and a reduction of 94 full-time positions. It says the reduced number of EPA enforcers will focus on matters affecting multiple states or tribes and cut back on "small" criminal cases that have "limited deterrent value."

In addition, the agency stresses in its budget documents its work to "create more effective partnerships" for enforcement with local governments, tribes and states.

"EPA, states, and tribes work together to develop and deliver better results," the agency says in its budget justification to Congress, "often with lower costs and less burden for the benefit of the public, the regulated community, and governmental sectors."

In explaining the reasons for providing less taxpayer money for enforcement, EPA says it has delegated enforcement of many of its signature programs to states and says they should assume a greater share of the burden.

It doesn't provide statistics for the enforcement of EPA programs delegated to the states. But it does note that EPA retains enforcement authority and can step in after consulting with state officials.

The number of EPA inspections in the last fiscal year dropped to 10,300 from 10,600 the year before. That's the lowest number since at least 2008, when the agency did a little more than 20,000 inspections.

The document cites a memo from the administration's top EPA enforcement official, Susan Bodine, explaining the shift to the states (*E&E News PM*, July 11, 2019).

It also says the agency has had success in reducing the backlog of older enforcement cases.

The budget documents indicate that EPA is setting a goal of reducing the average time from violation identification to correction and increasing the "environmental law compliance rate." The increase in compliance, the agency says, will be pegged at first to reducing the number of National Pollutant Discharge Elimination System permit holders who are in "significant non-compliance" with their disposal limits.

## Trump budget could 'destabilize' watchdog — IG

Kevin Bogardus, E&E News reporter Published: Tuesday, February 11, 2020



A sign on the door of EPA's Office of Inspector General. Francis Chung/E&E News

EPA's internal watchdog office, which has tangled recently with political leadership at the agency, would see budget cuts under President Trump's fiscal plan.

The White House's fiscal 2021 budget plan proposed more than \$39.8 million for the EPA Office of Inspector General. In addition, the proposal would transfer more than \$9.7 million from a Superfund account to the watchdog office, giving it total funding of close to \$49.6 million for the year, according to the agency's [congressional justification](#).

That equals about a \$3.5 million cut for the IG office from its fiscal 2020 funding of nearly \$53.1 million. The EPA watchdog has already protested the proposed funding slash, saying it could cripple its investigative and audit work meant to root out fraud, waste and abuse at the agency.

"Simply put, less funding directly correlates to fewer audits, evaluations, and criminal and employee misconduct investigations," said EPA IG Sean O'Donnell in a statement shared with E&E News.

"Further, as many of the audits are congressionally requested, any reduction to the OIG's budget makes it difficult to perform these important, but ultimately discretionary, audits and evaluations. It is critical that my office have the resources available to continue to promote good governance and contribute to improved health and the environment."

Others at the IG office have also pushed back.

"A budget at this level could destabilize the OIG and have an immediate negative impact on the OIG's production capacity and ability to respond to ever-demanding and increased workload requirements," said then-acting EPA IG Charles Sheehan in a Jan. 10 [letter](#) to Office of Management and Budget Director Mick Mulvaney.

Sheehan added he did not agree with the president's budget request, which would "substantially inhibit" the IG office from performing its duties.

"Many audits are mandated by Congress, and as the OIG attempts to continue to balance its workload with a tight annual budget of \$53 million, a budget of \$49.6 million would virtually eliminate our ability to perform many discretionary audits and evaluations," he said.

Sheehan also said requests for investigations have not been met "due to a significant lack of resources."

"The OIG has had to inform congressional and other requestors that we cannot undertake a requested review, can only do a portion of the requested work, or will try to do it at a later time," he said.

"These requests include projects that we believe would have significant value, but we must forego due to our significant lack of resources resulting in a diminished capacity to adequately respond," he said.

Sheehan asked that the IG office's requested budget of \$59.3 million be recognized instead.

Sheehan is now O'Donnell's deputy at the watchdog office. O'Donnell was sworn in Jan. 27.

EPA often is faced with proposed Trump budget cuts, which are then ignored by Congress. No different is the White House fiscal 2021 budget plan, which would cut the agency's funds by 27%, leaving it with a \$6.7 billion budget ([Greenwire](#), Feb. 10).

The EPA watchdog office has registered protests against budget cuts in the past. Sheehan wrote a [similar letter](#) to Mulvaney in February last year.

The watchdog office has often had to make do with a flat budget. EPA's inspector general, however, received a funding boost of roughly \$2.8 million more for fiscal 2020 in year-end spending legislation approved by Congress last December ([Greenwire](#), Dec. 17, 2019).

This proposed budget cut comes on the heels of conflict between the IG and leadership at EPA.

Outgoing Chief of Staff Ryan Jackson's reluctance to cooperate with various IG investigations sparked a rare "[seven day letter](#)" warning agency leadership late October last year. Jackson later agreed to sit for an interview for one of those investigations ([Greenwire](#), Jan. 28).

## IG offices at Energy, Interior

Inspectors general at other energy and environmental agencies fared better under Trump's budget plan for fiscal 2021.

The Department of the Interior's Office of Inspector General would see a funding boost if lawmakers followed the president's fiscal blueprint.

Trump's budget proposal slates more than \$59.3 million for the Interior watchdog, according to the department's [congressional justification](#). Lawmakers gave the IG office nearly \$56 million in fiscal 2020, so that would be about a \$3.3 million uptick.

"We appreciate the demonstration of support reflected in this budget," Interior IG office spokeswoman Nancy DiPaolo told E&E News.

"Under the leadership of our new Inspector General Mark L. Greenblatt, the increased funding would support a new initiative focusing on protecting Native American kids in schools, targeting energy fraud, returning millions of dollars back to American taxpayers and conducting aggressive cybersecurity oversight."

Also in fiscal 2021, the White House proposed more than \$57.7 million for the Department of Energy's Office of Inspector General, according to [budget documents](#). That would be roughly a \$3.5 million increase from what Congress appropriated to the IG office for the prior fiscal year.

A DOE IG office spokesman confirmed the watchdog office's proposed budget numbers that E&E News cited in this story but could not offer any more details at this time.

## DEFENSE

### Trump budget would cut environmental cleanups

Bev Banks, E&E News reporter

Published: Tuesday, February 11, 2020

The president's fiscal 2021 budget request would decrease funding by 19% for defense environmental cleanup, from \$6.3 billion in fiscal 2020 to \$5.1 billion in fiscal 2021.

Funding would drop for all facilities, except the Savannah River Site. Money for the former nuclear weapons site would go up from \$1.46 billion to \$1.53 billion.

The budget plan also proposes cuts to environmental restoration programs for the Army, Navy, Air Force and defensewide accounts. Spending would drop nearly 25% from \$1.1 billion in fiscal 2020 to \$856 million in fiscal 2021.

Environmental restoration includes the reduction and recycling of hazardous wastes from DOD facilities as well as former defense sites.

The budget would decrease funding by 21% from \$275 million in fiscal 2020 to \$217 million in fiscal 2021 for 1,685 formerly used defense sites.

There was no specific mention related to funding changes for climate resilience efforts in the budget request.

Overall, the president's fiscal 2021 budget request prioritizes nuclear weapons expansion and modernization.

The Department of Defense would receive \$705.4 billion as part of the Trump administration's effort to "rebuild America's military."

The total funding for national defense would be \$740.5 billion set by congressional spending caps. The president did not honor caps for domestic spending, opting for lower funding.

The 2018 National Defense Strategy emphasized the need for more nuclear weapons capabilities as the United States prepares for great power competition with Russia and China.

## NNSA

The National Nuclear Security Administration would receive nearly 20% more funding — \$16.5 billion in fiscal 2020 to \$19.8 billion in fiscal 2021. Of that total, \$15.6 billion would be spent on nuclear weapons programs.

The budget proposal looks for \$28.9 billion for nuclear deterrence efforts, including \$17.7 billion for nuclear modernization.

The White House's national security fact sheet said funding would "support the existing nuclear weapons stockpile, extend the life of our nuclear warheads, recapitalize facilities, and maintain world-leading science supporting the nuclear weapons stockpile."

DOD's 2018 Nuclear Posture Review called for increased production by 2030 of plutonium pits, the radioactive core causing detonation in a nuclear weapon.

Many environmental watchdogs criticized expanded weapons production and increased funding as giving rise to a nuclear arms race (Greenwire, Jan. 20).

"The budget is very troubling in that it really reveals that the Trump administration is trying to engage in a new nuclear arms race, which is dangerous for the entire world," said Tom Clements, the director of Savannah River Site Watch, a nuclear production watchdog group.

## REGULATIONS

### Snow slows but doesn't stop NEPA listening session

Jennifer Yachnin, E&E News reporter Published: Tuesday, February 11, 2020



President Trump announcing changes to the National Environmental Policy Act at the White House last month. Polaris/Newscom

*This story was updated at 1:45 p.m. EST.*

DENVER — An overnight snowstorm here that snarled traffic and triggered school delays likewise curbed attendance at the first public hearing on the Trump administration's overhaul of the nation's bedrock environmental law.

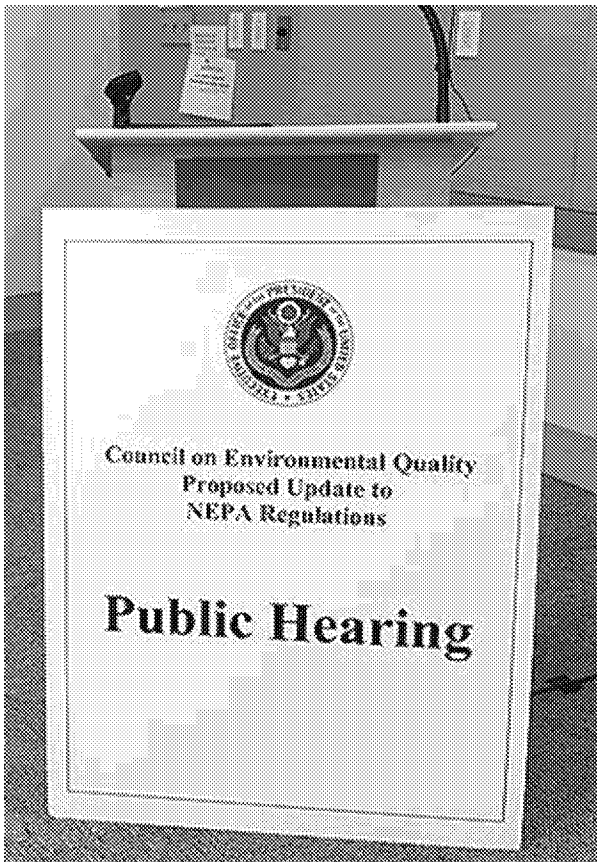
The White House's Council on Environmental Quality is holding a daylong hearing to receive testimony on its proposed revisions to the National Environmental Policy Act rules.

Despite a capacity list of public commenters — which prompted CEQ to add a third listening session to its one-day event — a conference room at EPA's Region 8 headquarters held dozens of empty chairs as the event kicked off.

"We are excited to get your comments here today," CEQ Associate Director for National Environmental Policy Act Ted Boling told the audience, which recessed about 30 minutes early due to a lack of speakers.

The administration is expected to hear from more than 100 individuals who signed up to publicly comment on the proposed changes, as well as to accept handwritten cards from spectators who could not secure a three-minute speaking slot. The hearing will run from 9 a.m. until 8 p.m. MST, with two one-hour breaks throughout the day.

President Trump announced last month that his administration will revise the 40-year-old regulations, slamming the current environmental review process as a "regulatory nightmare." NEPA requires the federal government to consider alternatives to projects that cause environmental harm, as well as gives communities opportunities to provide input ([Greenwire](#), Jan. 9).



The Council on Environmental Quality is holding a hearing today in Denver on the proposed NEPA regulations. Jennifer Yachnin/E&E News

The public will have until March 10 to comment on the proposed changes, including at hearings today and in Washington on Feb. 25. Comments can also be submitted at [Regulations.gov](https://www.regulations.gov).

Today's session began with a 20-minute overview presented by Boling, who emphasized the Trump administration's desire to simplify the review process, as well as eliminate the use of NEPA in some cases.

The proposed rule would "facilitate more effective, efficient and timely NEPA reviews by federal agencies," Boling explained. "The revisions are intended to make the regulations easier to read, understand and follow."

The initial round of commenters showcased the dichotomy of those present — with agriculture, construction, and oil and gas interests supportive of downsizing the NEPA process, while environmentalists and Native Americans slammed the changes for setting aside climate impacts ([Climatewire](#), Jan. 6).

Rancher Niels Hansen of Rawlins, Wyo., was among the first speakers. He lamented the current NEPA process, which he asserted can unduly delay grazing permits and fire prevention projects.

He also accused unnamed "obstructionist groups" of using NEPA to block projects via the court system.

"Too often we see them take on something just because there's a SNAFU in the paperwork ... nothing to do with the value of the project," Hansen said.

But Diné Nation member Lyla June Johnston slammed CEQ's proposed changes, after opening her remarks by reminding the audience that the land surrounding them was stolen from various indigenous nations.

"Asking to speak here today is like asking to speak at the proposal of killing my own mother," Johnston said.

She thanked Hansen and a U.S. Chamber of Commerce official who spoke ahead of her, before adding: "These environmental integrities are much more important than the success of our businesses because we cannot have an economy on a dead planet."

## 'Years of analysis'

Members of the Senate Western Caucus, led by Montana Sen. Steve Daines (R), weighed in on the NEPA reforms in a [letter](#) yesterday addressed to CEQ Chairwoman Mary Neumayr.

"CEQ's NEPA regulations have not been substantially updated in over four decades during which the environmental review process became increasingly outdated leading to an unnecessarily cumbersome permitting process, delays in project implementation and an abundance of litigation," Daines wrote, along with 17 other Republican senators.

The letter said the average environmental impact statement requires more than four years to complete, which is "not conducive to public engagement, sound decision-making or investments in our communities."

The U.S. Chamber likewise endorsed the updated NEPA process ahead of today's hearing.

At a press conference yesterday, representatives of the Unlock American Investment coalition, a group of more than 40 organizations helmed by the Chamber, criticized current NEPA requirements as overwhelming.

Former Interior Secretary Gale Norton, who served during the George W. Bush administration, lamented that NEPA analyses earlier in her career were "less than an inch thick," but "today, we talk about bookshelves" for the documents.

"It doesn't have to be encumbered by delay and papering the process in order to withstand litigation, it really ought to be focused on the important decisions," asserted Norton.

She added: "When I was at Interior, I was very involved with management of our forests across the country and it was so frustrating to see a hillside devastated by pine beetles, to know there was huge fire danger, and to not to be able to do anything about it without years of analysis."

The Chamber's vice president for transportation and infrastructure, Ed Mortimer, dismissed concerns that removing requirements for projects to consider their "cumulative" impacts would mean builders would ignore climate change impacts.

"One of the things we've talked about is as we modernize our infrastructure, we want it to be built to last," Mortimer said. "We understand that a lot of the climate issues that our country is dealing with today are different than what they dealt with when a lot of this infrastructure was built."

Those remarks echoed an [op-ed](#) by Neumayr authored last week in the *Grand Junction Daily Sentinel*, in which she touted proposals to set a two-year deadline for all environmental impact statements.

"As the environmental review process under NEPA has become increasingly and unnecessarily complicated, the result is an unpredictable and costly process for agencies, project applicants, and individuals seeking permits and approvals from the federal government," Neumayr wrote.

She also disputed suggestions that the reforms would weaken environmental requirements for infrastructure or energy-related projects, asserting the updates do not "change any substantive environmental protections."

## TRUMP BUDGET

### DOJ says environmental workload 'no longer sustainable'

[Pamela King](#), E&E News reporter





Justice Department headquarters in Washington. John Taylor/Flickr

The Department of Justice has requested more money to protect the Trump administration's environmental rule changes during the last year of the president's term.

DOJ's request for its Environment and Natural Resources Division comes as the administration proposes deep reductions to energy and environmental programs in other agencies ([Greenwire](#), Feb. 10).

ENRD said the additional \$4.8 million would fund land acquisitions for a border wall between the United States and Mexico, support environmental enforcement efforts and bolster the department's defense of regulations supporting energy development.

"Virtually every significant agency action implementing this agenda has been or will be challenged," the budget [summary](#) says.

"ENRD's attorneys' [sic] are currently handling heavy caseloads which include both Administration priority matters as well as other defensive litigation that imposes deadlines which must be met," it said.

"This increased workload is no longer sustainable and additional resources are necessary for ENRD to continue to be able to allow the best possible defense of the Administration's priority actions."

Lawyers for DOJ's environment division have defended the Trump administration's changes to Clean Water Act protections for waterways and wetlands and Clean Air Act standards for power plant emissions, among other actions.

The division requested \$114.3 million for fiscal 2021, a 4.4% increase from its \$109.4 million enacted level in fiscal 2020.

DOJ said it would spend \$796,000 to hire five attorneys and two paralegals to support ENRD's work.

In addition to its work on the border wall, pollution control and environmental rules, ENRD said it expects to see more National Environmental Policy Act and Endangered Species Act challenges in response to infrastructure build-outs.

Overall, DOJ would sustain a 2.3% decrease from its fiscal 2020 enacted level to its fiscal 2021 request of \$31.7 billion.

The budget would reduce funding for community policing and prison construction, and would eliminate reimbursements for costs associated with imprisoning immigrants who come to the country illegally.

"The Administration proposes to instead invest in border enforcement and border security initiatives that would more effectively address the public safety threats posed by criminal aliens," the administration wrote.

## EPA

### Enviros win science advisers lawsuit

Pamela King, E&E News reporter

Published: Tuesday, February 11, 2020



Environmental groups scored a courtroom victory in their challenge of a directive by former EPA Administrator Scott Pruitt related to the agency's science advisory boards. EPA

Green groups have clocked a win against a controversial EPA policy that limited who could be members of the agency's science advisory boards.

Yesterday's ruling by Judge Denise Cote for the U.S. District Court for the Southern District of New York came after multiple courts tossed similar claims.

The Natural Resources Defense Council sued the agency last year over a 2017 directive from then-EPA Administrator Scott Pruitt that said members of the agency's advisory boards could not be recipients of EPA grants. The policy resulted in the removal of scientists from the agency's advisory committees.

Cote agreed with NRDC, saying that the Administrative Procedure Act requires EPA to provide a "reasoned explanation" for the change.

"The EPA concedes, as it must, that the Directive is a departure from prior EPA policy that allowed EPA grant recipients to serve as members of advisory committees," Cote, a Clinton appointee, wrote in yesterday's opinion.

"Indeed," she continued, "prior to the issuance of the Directive, the EPA's Peer Review Handbook stated specifically that there is 'no question' that a scientist who receives EPA research funding can, nonetheless, offer 'independent scientific advice' to the EPA."

At the time, Pruitt said EPA's policy was designed to ensure objectivity of panels like the Clean Air Scientific Advisory Committee and the Science Advisory Board.

During a separate round of litigation over the policy, documents indicated that industry groups and Republican lawmakers influenced the change.

Cote's ruling follows several failed attempts by NRDC and other groups to overturn EPA's ban ([Greenwire](#), March 27, 2019).

"This is a victory for basic truth and good governance. It affirms the role of science in protecting our environment and public health," Jon Devine, director of federal water policy for NRDC's Nature Program, said in a statement yesterday.

"And it strikes down the EPA's pernicious scheme to stack the deck in favor of big polluters by trying to shut out the voices of scientists — all to pump more pollution into our lives," he said.

EPA said it is reviewing the court's decision.

## AIR POLLUTION

### EPA finalizes exemption for Texas emissions

Sean Reilly, E&E News reporter Published: Tuesday, February 11, 2020



The Oak Grove Power Plant in Texas. @ToddMcNeill/Twitter

Refineries, power plants and other industrial polluters in Texas could find it easier to skirt financial consequences for some emissions violations under a newly approved carve-out to an Obama-era policy.

EPA has granted Texas' request for a "narrowly tailored" exemption from a ban on so-called affirmative defense provisions that shield companies from civil penalties for excess pollution stemming from plant startups, shutdowns and equipment malfunctions, according to a [notice](#) published Friday.

EPA "recognizes that imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances beyond the control of the owner or operator may not be appropriate," Ken McQueen, head of the agency's Dallas-based regional office, wrote in the notice. The Texas exemption is drafted carefully enough that it will not undermine any Clean Air Act requirement, McQueen indicated.

The agency had proposed granting the petition from the Texas Commission on Environmental Quality last spring ([E&E News PM](#), April 26, 2019). Its approval will take effect March 9.

The exemption had the backing of Texas oil and gas interests, the chemical industry, and Luminant Generation Co. LLC, one of the state's largest power providers.

EPA had previously approved the same affirmative defense language in 2010 before later changing its position in response to a court decision, Luminant's parent company wrote in comments last June on the proposal. The agency's return to its previous position "is the only appropriate course" because it's bound by a separate 2013 ruling by the 5th U.S. Circuit Court of Appeals in litigation involving Luminant, the comments added.

But environmental groups, noting that some of the state's major metro areas are already flunking key air quality standards, were strongly opposed.

"This loophole conflicts with Clean Air Act requirements that emissions limitations apply on a continuous basis" and also undercuts enforcement, Juan Parras, executive director of Texas Environmental Justice Advocacy Services, said in comments also filed last June.

Another commenter cited state data showing that Texas companies routinely relied on affirmative defenses for "excess emissions events" that in 2017 resulted in the release of more than 63 million pounds of air pollution, according to a summary included in Friday's *Federal Register* notice.

In a 2015 rule, the Obama-era EPA broadly barred the use of affirmative defenses; the agency then required Texas and almost three dozen other states to drop such exemptions from their "state implementation plans." Many of those states, including Texas, are now plaintiffs in a consolidated legal challenge to the 2015 policy before the U.S. Court of Appeals for the District of Columbia Circuit.

Proceedings in that litigation have been on hold since April 2017 as the Trump administration considers its position on the policy. In a joint motion submitted to the court Friday, attorneys for EPA and other parties noted that the agency has proposed granting a similar waiver to North Carolina and asked that the litigation remain in abeyance.

## AIR POLLUTION

### U.S. Steel, health officials finalize pact on Pa. coke plant

Published: Tuesday, February 11, 2020



U.S. Steel's Clairton Coke Works near Pittsburgh. Roy Luck/Flickr

U.S. Steel and the Allegheny County Health Department in Pennsylvania say they have finalized terms of last year's settlement agreement that requires \$200 million in improvements to the Clairton Coke Works and created a trust to benefit communities affected by air pollution from the plant.

The agreement names Pittsburgh-based Smithfield Trust as administrator of the trust, which will benefit communities such as Clairton, Glassport, Liberty, Lincoln and Port Vue. Neither the company nor the department will be involved in administering the trust.

"These communities will be able to utilize funds for projects that improve, protect, or reduce the risk to public health or the environment," the department said in a statement.

The agreement, which applies to emissions violations in 2018 and early 2019, requires U.S. Steel to pay \$2.7 million in fines. The department said about \$2.4 million served as the initial deposit in July and an additional \$699,262 was deposited last month. Officials said 90% of future fines will be deposited into the trust for about five years.

U.S. Steel said the \$200 million in improvements have begun "and are in addition to the substantial investment in environmental improvements already committed to by the company, including over \$100 million spent annually on environmental compliance across the Mon Valley Works facilities."

The company also cited a recently announced investment of about \$1.5 billion in advanced steelmaking technology at the Edgar Thomson Plant and a new cogeneration facility at the Clairton plant. — *Associated Press*

## CALIFORNIA

### Meteorologists say 209 mph gust reading likely a mistake

Published: Tuesday, February 11, 2020

A gust of 209 mph recorded atop a California peak over the weekend was likely not a state wind record but a mistake resulting from a faulty sensor, meteorologists said yesterday.

The wind recording was made Sunday morning by an instrument at 9,186 feet on Kirkwood Mountain south of Lake Tahoe. If accurate, it would have broken the previous wind record of 199 mph at Ward Mountain west of Lake Tahoe in 2017.

But forecasters now suspect the sensor wasn't working properly, said Cory Mueller, a meteorologist with the National Weather Service in Sacramento.

"It doesn't seem realistic after looking at the wind sensor," he told the *Los Angeles Times*. "It was reporting high winds when we were seeing lighter winds and higher humidity than we were actually experiencing. We believe the sensor wasn't working correctly."

A storm that caused widespread in flooding last week in Washington state and Oregon brought a strong cold front to California.

Powerful winds lingered yesterday across Southern California. Gusts brought down trees near Los Angeles and knocked over a big rig on Interstate 15 in Fontana. — *Associated Press*

# CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Wed., February 12, 2020



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### **How N.H. elevated climate in the race for president**

New Hampshire voters raised the chances that a climate-focused candidate will be nominated by Democrats to challenge President Trump in November.

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#### TOP STORIES

## 2. CARBON:

### **Emissions were flat in 2019 — but don't cheer, analysts say**

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### **Lawmakers grill Fed chair on climate risk**

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### **Effort to harness nuclear fusion moves closer to reality**

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#### POLITICS

## 5. EMISSIONS:

### **Planting 60B trees by 2040 could cut global CO2 by 1%**

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#### GLOBAL

## 6. CARBON TRADING:

### **Germany seeks British man's arrest in \$133M scam**

## 7. FINANCE:

### **Africa shouldn't need to beg for climate aid: Bank president**

## 8. TRANSPORTATION:

### **U.K.'s Johnson backs high-speed railway despite opposition**

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#### CLIMATE IMPACTS

## 9. WILDLIFE:

### **Penguin colonies shrink in Antarctica due to climate change**

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# ENERGYWIRE

AN E&E NEWS PUBLICATION

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1. RENEWABLE ENERGY:

**Offshore wind: What are Trump's 'true intentions'?**

The Trump administration's announcement that it would delay permitting for the nation's first offshore wind farm came in the same week the president bashed turbine "bird graveyards." It also followed a White House budget request that called for increased offshore wind funding. What's going on?

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**FERC order, Exelon probe muddy Ill. climate fight**

3. UTILITIES:

**Dominion Energy net-zero pledge keys on methane emissions**

4. ELECTRICITY:

**Chatterjee defends markets after FERC order backlash**

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TECHNOLOGY

5. SECURITY:

**Grid's 'big problem' far from fixed**

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ELECTRICITY

6. ENERGY TRANSITIONS:

**World's largest renewable developer bids on S.C. utility**

7. PEOPLE:

**Ex-FERC chair, industry launch railroad electrification group**

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ENERGY TRANSITIONS

8. VIRGINIA:

**Lawmakers pass major renewable energy legislation**

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OIL AND GAS

9. REGULATIONS:

**Oil from federal lands tops 1B barrels as Trump eases rules**

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**Exxon cracks down on employee travel after profit collapse**

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11. ELECTRIC VEHICLES:

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